

**ASSEMBLY BILL**

**No. 943**

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**Introduced by Assembly Member Nestande**

February 22, 2013

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An act to add and repeal Sections 1705.83, 17053.84, 23683, and 23684 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

LEGISLATIVE COUNSEL'S DIGEST

AB 943, as introduced, Nestande. Income taxes: credits: qualified scholarships: qualified programs.

The Personal Income Tax Law and the Corporation Tax Law allow various credits against the taxes imposed by that law.

This bill, for taxable years beginning on or after January 1, 2013, and before January 1, 2017, would allow a credit against the taxes imposed under those laws for monetary contributions to nonprofit organizations to fund qualified scholarships for specified pupils to attend private schools, as defined, or to fund grants for qualified programs relating to science, technology, engineering, and math literacy, and the arts for public and charter schools, as defined.

This bill would take effect immediately as a tax levy.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 17053.83 is added to the Revenue and
- 2 Taxation Code, to read:

- 1 17053.83. (a) For each taxable year beginning on or after  
2 January 1, 2013, and before January 1, 2017, there shall be allowed  
3 as a credit against the “net tax,” as defined in Section 17039, an  
4 amount equal to the monetary amount contributed by a taxpayer  
5 to a nonprofit organization to fund a qualified scholarship. The  
6 credit shall not exceed 50 percent of the “net tax” for the taxable  
7 year.
- 8 (b) For purposes of this section:
- 9 (1) “Nonprofit organization” means an organization that is  
10 tax-exempt under Section 501(c)(3) of the Internal Revenue Code.
- 11 (2) “Private school” means a person, firm, association,  
12 partnership, or corporation offering or conducting private school  
13 instruction on the elementary or high school level.
- 14 (3) “Qualified scholarship” means a scholarship for a pupil with  
15 special needs or a pupil in foster care to attend a private school  
16 that meets all of the following:
- 17 (A) The pupil remains eligible for the scholarship until he or  
18 she graduates from high school or leaves the foster care program.
- 19 (B) The scholarship may be used at any private school if the  
20 pupil’s residence changes and attendance at a particular private  
21 school is not feasible.
- 22 (C) Eligibility for the scholarship shall be based on family  
23 income, not to exceed 250 percent of the federal poverty guidelines.  
24 A partial scholarship may be granted if the family income of a  
25 pupil that was awarded a scholarship in the previous year increases  
26 in the following year.
- 27 (c) A nonprofit organization that provides qualified scholarships  
28 shall retain data on the educational improvement of scholarship  
29 recipients so that the efficacy of the qualified scholarship program  
30 may be evaluated.
- 31 (d) The aggregate amount of credit allowed to all taxpayers  
32 under this section and Section 23684 shall not exceed fifty million  
33 dollars (\$50,000,000) for all taxable years.
- 34 (e) In the case where the credit allowed by this section exceeds  
35 the “net tax,” the excess may be carried over to reduce the “net  
36 tax” in the following year, and the succeeding years if necessary,  
37 until the credit is exhausted.
- 38 (f) The credit under this section shall be in addition to any  
39 deduction under this part to which the taxpayer may be entitled.

1 (g) (1) The Franchise Tax Board shall promulgate rules and  
2 regulations as necessary or appropriate to implement this section.

3 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of  
4 Division 3 of Title 2 of the Government Code does not apply to  
5 any standard, criterion, procedure, determination, rule, notice, or  
6 guideline established or issued by the Franchise Tax Board  
7 pursuant to this section.

8 (h) This section shall remain in effect only until December 1,  
9 2017, and as of that date is repealed.

10 SEC. 2. Section 17053.84 is added to the Revenue and Taxation  
11 Code, to read:

12 17053.84. (a) For each taxable year beginning on or after  
13 January 1, 2013, and before January 1, 2017, there shall be allowed  
14 as a credit against the “net tax,” as defined in Section 17039, an  
15 amount equal to the monetary amount contributed by a taxpayer  
16 to a nonprofit organization to provide a grant for a qualified  
17 program. The credit shall not exceed 50 percent of the “net tax”  
18 for the taxable year.

19 (b) For purposes of this section:

20 (1) “Charter school” means a school established pursuant to  
21 Part 26.8 (commencing with Section 47600) of Title 2 of the  
22 Education Code providing elementary or high school education.

23 (2) “Nonprofit organization” means an organization that is  
24 tax-exempt under Section 501(c)(3) of the Internal Revenue Code.

25 (3) “Public school” means any day or evening elementary school  
26 and any day or evening high school established by statute, or by  
27 municipal or district authority.

28 (4) “Qualified program” means a program in science,  
29 technology, engineering, and math literacy, and the arts for public  
30 and charter schools that is both of the following:

31 (A) An advanced academic or similar program that is not part  
32 of the regular program of a public or charter school, but enhances  
33 the curriculum of the public or charter school.

34 (B) A cocurricular activity for pupils that is an optional,  
35 noncredit educational activity that supplements education,  
36 including, but not limited to, gifted programs, visual and  
37 performing arts, music arts, academic clubs, and educational field  
38 trips.

39 (c) A grant provided by the nonprofit organization for a qualified  
40 program shall be provided to a specific public or charter school,

1 or more than one school, of the nonprofit organization’s choosing.  
 2 A grant shall include guidelines that detail what specific programs  
 3 may be funded by the grant moneys and shall prohibit the use of  
 4 grant moneys for administration or overhead costs.

5 (d) The aggregate amount of credit allowed to all taxpayers  
 6 under this section and Section 23683 shall not exceed fifty million  
 7 dollars (\$50,000,000) for all taxable years.

8 (e) In the case where the credit allowed by this section exceeds  
 9 the “net tax,” the excess may be carried over to reduce the “net  
 10 tax” in the following year, and the succeeding years if necessary,  
 11 until the credit is exhausted.

12 (f) The credit under this section shall be in addition to any  
 13 deduction under this part to which the taxpayer may be entitled.

14 (g) (1) The Franchise Tax Board shall promulgate rules and  
 15 regulations as necessary or appropriate to implement this section.

16 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of  
 17 Division 3 of Title 2 of the Government Code does not apply to  
 18 any standard, criterion, procedure, determination, rule, notice, or  
 19 guideline established or issued by the Franchise Tax Board  
 20 pursuant to this section.

21 (h) This section shall remain in effect only until December 1,  
 22 2017, and as of that date is repealed.

23 SEC. 3. Section 23683 is added to the Revenue and Taxation  
 24 Code, to read:

25 23683. (a) For each taxable year beginning on or after January  
 26 1, 2013, and before January 1, 2017, there shall be allowed as a  
 27 credit against the “tax,” as defined in Section 23036, an amount  
 28 equal to the monetary amount contributed by a taxpayer to a  
 29 nonprofit organization to fund a qualified scholarship. The credit  
 30 shall not exceed 50 percent of the “tax” for the taxable year.

31 (b) For purposes of this section:

32 (1) “Nonprofit organization” means an organization that is  
 33 tax-exempt under Section 501(c)(3) of the Internal Revenue Code.

34 (2) “Private school” means a person, firm, association,  
 35 partnership, or corporation offering or conducting private school  
 36 instruction on the elementary or high school level.

37 (3) “Qualified scholarship” means a scholarship for a pupil with  
 38 special needs, a pupil in foster care, or a pupil from a low-income  
 39 family, to attend a private school that meets all of the following:

1 (A) The pupil remains eligible for the scholarship until he or  
2 she graduates from high school or leaves the foster care program.

3 (B) The scholarship may be used at any private school if the  
4 pupil's residence changes and attendance at a particular private  
5 school is not feasible.

6 (C) Eligibility for the scholarship shall be based on family  
7 income, not to exceed 250 percent of the federal poverty guidelines.  
8 A partial scholarship may be granted if the family income of a  
9 pupil that was awarded a scholarship in the previous year increases  
10 in the following year.

11 (c) A nonprofit organization that provides qualified scholarships  
12 shall retain data on the educational improvement of scholarship  
13 recipients so that the efficacy of the qualified scholarship program  
14 may be evaluated.

15 (d) The aggregate amount of credit allowed to all taxpayers  
16 under this section and Section 23684 shall not exceed fifty million  
17 dollars (\$50,000,000) for all taxable years.

18 (e) In the case where the credit allowed by this section exceeds  
19 the "tax," the excess may be carried over to reduce the "tax" in  
20 the following year, and the succeeding years if necessary, until the  
21 credit is exhausted.

22 (f) The credit under this section shall be in addition to any  
23 deduction under this part to which the taxpayer may be entitled.

24 (g) (1) The Franchise Tax Board shall promulgate rules and  
25 regulations as necessary or appropriate to implement this section.

26 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of  
27 Division 3 of Title 2 of the Government Code does not apply to  
28 any standard, criterion, procedure, determination, rule, notice, or  
29 guideline established or issued by the Franchise Tax Board  
30 pursuant to this section.

31 (h) This section shall remain in effect only until December 1,  
32 2017, and as of that date is repealed.

33 SEC. 4. Section 23684 is added to the Revenue and Taxation  
34 Code, to read:

35 23684. (a) For each taxable year beginning on or after January  
36 1, 2013, and before January 1, 2017, there shall be allowed as a  
37 credit against the "tax," as defined in Section 23036, an amount  
38 equal to the monetary amount contributed by a taxpayer to a  
39 nonprofit organization to provide a grant for a qualified program.

1 The credit shall not exceed 50 percent of the “tax” for the taxable  
2 year.

3 (b) For purposes of this section:

4 (1) “Charter school” means a school established pursuant to  
5 Part 26.8 (commencing with Section 47600) of Title 2 of the  
6 Education Code providing elementary or high school education.

7 (2) “Nonprofit organization” means an organization that is  
8 tax-exempt under Section 501(c)(3) of the Internal Revenue Code.

9 (3) “Public school” means any day or evening elementary school  
10 and any day or evening high school established by statute, or by  
11 municipal or district authority.

12 (4) “Qualified program” means a program in science,  
13 technology, engineering, and math literacy, and the arts for public  
14 and charter schools that is both of the following:

15 (A) An advanced academic or similar program that is not part  
16 of the regular program of a public or charter school, but enhances  
17 the curriculum of the public or charter school.

18 (B) A cocurricular activity for pupils that is an optional,  
19 noncredit educational activity that supplements education,  
20 including, but not limited to, gifted programs, visual and  
21 performing arts, music arts, academic clubs, and educational field  
22 trips.

23 (c) A grant provided by the nonprofit organization for a qualified  
24 program shall be provided to a specific public or charter school,  
25 or more than one school, of the nonprofit organization’s choosing.  
26 A grant shall include guidelines that detail what specific programs  
27 may be funded by the grant moneys and shall prohibit the use of  
28 grant moneys for administration or overhead costs.

29 (d) The aggregate amount of credit allowed to all taxpayers  
30 under this section and Section 23683 shall not exceed fifty million  
31 dollars (\$50,000,000) for all taxable years.

32 (e) In the case where the credit allowed by this section exceeds  
33 the “tax,” the excess may be carried over to reduce the “tax” in  
34 the following year, and the succeeding years if necessary, until the  
35 credit is exhausted.

36 (f) The credit under this section shall be in addition to any  
37 deduction under this part to which the taxpayer may be entitled.

38 (g) (1) The Franchise Tax Board shall promulgate rules and  
39 regulations as necessary or appropriate to implement this section.

1 (2) Chapter 3.5 (commencing with Section 11340) of Part 1 of  
2 Division 3 of Title 2 of the Government Code does not apply to  
3 any standard, criterion, procedure, determination, rule, notice, or  
4 guideline established or issued by the Franchise Tax Board  
5 pursuant to this section.

6 (h) This section shall remain in effect only until December 1,  
7 2017, and as of that date is repealed.

8 SEC. 5. This act provides for a tax levy within the meaning of  
9 Article IV of the Constitution and shall go into immediate effect.

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